

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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LAVALL T. LEE,

Plaintiff,

v.

Case No. 20-C-396

WILLIAM JAMES,

Defendant.

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**ORDER DENYING “MOTION TO PROTECT WITNESS”**

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Plaintiff in the above matter is an inmate at Racine Correctional Institution (RCI) who claims that he was subjected to excessive force by two correctional officers. The case is before the court on Plaintiff’s motion to conduct written depositions at RCI to protect the witnesses from Covid-19. The motion is denied. Plaintiff has signed subpoenas for several witnesses to appear and provide evidence in his case. However, because he has failed to tender witness fees, service is ineffective. *See* Fed. R. Civ. P. 45(b)(1). Because Plaintiff has not paid any witness fees, the proposed witnesses have no obligation to appear and provide evidence. Plaintiff also asks that the court issue an order as to how Plaintiff Lee is to pay the witness fee of \$40.00 for the proposed witnesses. Plaintiff’s motion is denied, but by way of explanation, Plaintiff is advised that the rules governing this action do not authorize payment of witness fees on behalf of indigent plaintiffs. Nor does the court have authority to waive witness fees on an indigent’s behalf. *Aiello v McCaughtry*, 94-1935, 1996WL420456 \*3 (7th Cir. July 25, 1996).

Finally, I note that discovery deadline in the case was October 30, 2020. Thus, Plaintiff would not be able to conduct further discovery in this case in any event. To the extent that Plaintiff

wishes to call these witnesses should the case proceed to trial, he may renew his request that the witnesses be made available. Under the Federal Rules of Evidence, the court has the authority to call witnesses on its own, and the court is willing to exercise that authority for a witness whose presence may be necessary to reach a just result. Fed. R. Evid. 614(a). In any event, for the foregoing reasons, Plaintiff's motion to conduct written depositions is denied.

**SO ORDERED** at Green Bay, Wisconsin this 6th day of November, 2020.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge